#### NO HOSPITAL ON BAKER'S FARM

GOV. MUGHES VETOES \$30,000 ITEM IN SUPPLY BILL.

This is the Farm the State Purchased in Gov. Odell's Administration for \$50. 600, When Odell Sought to Obtain Contrei of the Republican Party Machinery.

ALBANY, May 22.-In vetoing an item in the supply bill to-night Gov. Hughes brought to mind a most interesting situation that existed in the Republican State organization and revived what was a scandal. He vetoed an item appropriating \$50,000 for the preparation of plans and the construction of a building to form a part of a State hospital for the insane at Comstock Washington county When politicians read this they will smile,

for it will bring back to their minds a most resting episode in State politics of a few years ago. It was while Benjamin B. Odell, Jr., was Governor and he sought to take control of the party machinery from Thomas C. Platt that Comstock, a small hamlet of possibly 200 residents, first came

Ike Baker was the committeeman from the Rensselaer-Washington district, and Mr. Odell wanted his vote most urgently in order to secure the control he desired. Baker had a farm that was not considered to be worth much by his neighbors. Mr. Odell became the State chairman and Mr. Baker voted for him. At that session of the Legislature an appropriation of \$50,000 was made to buy Mr. Baker's farm for the site for a new State hospital. Since then there have been many attempts made to undo what the Legislature did during the closing hours of the Odell administration, but to no avail. This year the Legislature decided that something should be done with the site and the appropriation cited above was made. Gov. Haghes in vetoing it ways:

This is a mandatory provision that work shall be begun for the erection of a hospital for the insane at Comstock. The advisability of using the Comstock site for this purpose has been a matter of controversy, and the weight of opinion is decidedly against it.

The site at Comstock may, in my judgment, be made available for other purposes and it would be unwise now to erect a State hospital at that place in view of the distribution of population and the demand for increased hospital accommodations in the southeastern part of the State.

Some significance is attached to another Some significance is attached to another veto of an item in the supply bill. Senator Cassidy managed to have an item inserted in the bill appropriating \$25,000 for improving the defective drainage conditions on the lake level of the Chemung Canal between Watkins and Montour Falls, in his home county. The feeling between the Governor and the Senator from Schuyler is well known by all. It was his vote that defeated the anti-racing bills. Senator Cassidy was most anxious to secure this appropriation, for it anxious to secure this appropriation, for it meant a lot to him in his district. The Governor gives among his reasons for vetoing the appropriation that the Superintendent of Public Works reported that it would not be sufficient to accomplish permanent relief and might temporarily benefit a few individual land owners.

The Govern edge discouraged in the control of the control

vidual land owners.

The Governor also disapproved an item appropriating \$14,141 for salaries in the State Department of Insurance. The salaries were to have been necessary because of the bill of Assemblyman Foley in regard to mutual fire insurance companies of other States being admitted to do business in this State. The Governor gives as his reason for disapproving of the salary item that he vetced the bill that made necessary the positions.

In signing the annual supply and appropriation bills the Governor vetoed items in the appropriation bill aggregating \$301,500 and in the supply bill aggregating \$202,841, despite the fact that the financial committees of the two branches of the Legislature exercised unusual accordance in medical ture exercised unusual economy in making up these bills this year. A number of private and local improvement political grafts were vetoed because, as the Governor said, "they involved no obligations on the part of the State."

In signing the appropriation and supply ills Gov. Hughes filed a memorandum, in

The total appropriations, according to State Comptroller Martin H. Glynn's statement (exclusive of canal and highway sinking ds and highway improvement fund). which have been made by the Legislature this year amount to \$29,503,872. Bills and items disallowed by me amount to \$559,041, leaving a total of \$20,034,830, as compared with the appropriations of 1907 of \$28,867,855 This shows an increase of \$166,975. The appropriations this year for unusual purposes

amounted to \$808,575. The appropriation bills were framed with particular care and the members of the mmittees having these matters in charge deserve high commendation for their fidelity in safeguarding the interests of the State.

The Governor also disapproved of the bill providing for a salary classification commission to fix the salaries of the employees in State institutions. The bill was yetoed because while it attempted to follow his recommendation providing for such a commission it devolved the entire work of classification upon the Legislature. of classification upon the Legislature. The commission was merely to recommend and to report to the Governor such changes in salaries as it thought proper. The Governor thinks this subject should be handled by officers fairly representative and intimately acquainted with the needs of the institutions and not put the question up to the Legislature.

### NEW DEMOCRACY'S APPEAL

Urges Every Democrat to Enroll and Vote at the August Primaries.

ALBANY, May 22 .- Col. William G. Rice as chairman of the temporary executive committee of the Home Rule Democracy opened headquarters in Albany to-day at 44 State street in rooms adjoining those occupied for some years as State Demoeratic headquarters by the Thomas M Osborn wing of the Democracy, but it is asserted that each headquarters is to be

run independently.

Great quantities of literature are being sent out by the Home Rulers. In a circular which as sent out to-day the following is included in the introductory remarks:

"If you are a Democratic voter where the law provides for enrolment always enroll as a Democrat. Every Democrat abould vote at the primary if he wants good party government. If not now enrolled be sure to specially enroll in June. 1909 so you can vote in the August pri-

segin new to arrange that your hear and most representative Democrats shall go to the next Assembly district convention to the end that good men shall be sent as delegates to the fall State convention can repudiate and rescind the revolutionary and arbitrary action of the last State convention. This is worth working for. Do your part to

BUFFALO, May 22.-The chairmanship of BUFFALO. May 22.—The chairmanship of the State committee of the new home rule Democracy is said to lie between Sheriff James Smith and State Committeeman J. J. Kennedy of Buffalo. Sheriff Smith an-nounced to-day that the State committee of the home rulers, consisting of one mem-ber from each county, will be announced the first of next month.

### State Senate in Session With Only Raines

ALBANY, May 22 .- Although the Assembly resterday adjourned until Monday night the Senate to-day held a legislative day session. Senator Raines was the only member present and in the absence of Lieut.-Gov. Chanler he presided. The Senator put his own motion to adjourn until Monday night.

Senator Raines announced that Senators need not be in Albany for Monday night's session, but he wanted them all here on Tuesday.

LIVE TOPICS ABOUT TOWN.

A woman sat down in the shoe department of a Broadway store and bade the "I left a friend at the lace counter," she said, "and I want to get my shoes fitted before she comes over here."

before she comes over here."

The clerk apparently appreciated the circumstances. He worked fast, and in an incredibly short time the woman had selected three pairs of shoes.

"I wonder why she was so anxious to get through before her friend came." said another customer.

"For the same reason that makes many women want to shep alone when buying shoes." answered the clerk. "She has a rather large foot, and she didn't want her friend to find out just what number she wears. It is very seldom that the purchasers of shoes shop in pairs. They may hang together when buying anything else in the store, but when it comes to shoes each woman strikes out for herself. The only exception is the woman who has an unusually small foot. She would invite her whole calling list to go along when buying shoes if she could."

"Of all people on earth those living in New York are most afraid of sunshine, said a doctor. "They put up awnings earlier here than any place else and use them most constantly. On shivery spring days when it would seem that the average days when it would seem that the average person would be glad to hunt up a little sunshine and sit in it folks with west and south windows let down their awnings as soon as the sun crosses the meridian and keep them down till the last rays are out of sight. Since the beginning of May this fight against the sun has been waged. The only folk who show any appreciation of sunshine are those on the north side of the street where they can't get any."

The Pennsylvania Railroad has a capital and funded debt of about \$580,000,000, which will shortly be increased by \$50,000,-000, but this has been issued from time to time over a period of many years. The merger of all the important railroads in Mexico involves the issue of new securities to almost as large an amount, and most of them will have to be issued within a comparatively short period. The company which has the printing of the certificates says that it is the largest order it has ever received and that it will bring in a net profit of about \$55,000.

The small nephew from Virginia was making his first visit in the North. Came a rainy Sunday, and he suggested building a mansion of wood blocks. His uncle surveyed him amusedly. "Up here," he said, "we don't work on

Sunday."

The small boy reflected.
"Well," he said at length, "we don't do
no work Sunday either, 'cept read the
hible an' feed the hawgs."

"I had a funny experience the other morning," said a New York woman. "I was standing hatless in the millinery department of one of our big shops waiting for some changes to be made in a hat and was naturally mistaken for one of the clerks. The questions I was asked in those few moments almost drove me wild. It was a constant string of inquiries from passing customers. 'Where'll I find baby carriages?' asked one woman. 'What floor are the iceboxes on?' asked another. 'What time is it, please?' begged a third, and so it went on. One woman, exasperated by my indifference, threatened to report me for insolence. It was all very furny, of course, but it set me thinking, and never again will I bother a clerk with questions. I'll find the floorwalker, whose business it is to pacify the public, and let him tell me what I want to know." few moments almost drove me wild. It

Now is the time when one man with a hoe comes to his own, the same being the peripatetic city gardener who goes around looking for jobs fixing up back yards, digging up the flower beds and trimming up the shrubs and setting out the plants and fixing things up generally, for there are still city back yards in which green things grow, and this particular man with a hoe knows where to find them. He least something out of it.

And it might be mentioned that at this time of year the man with a spade and a horse and wagon also gets a slight rakeoff out of the turf he brings in from open lots in outlying districts wherewith to resod

"Many a girl who formerly shut herself p in an airtight booth when telephoning and almost stopped up the cracks in the door for fear somebody would hear what she had to say has taken to telephoning in the open," said a drug clerk. "The things she says now are probably just as important as the things she used to say, but the girl can't get inside the booth to say them. It is her hat that keeps her out. them. It is her hat that keeps her out. It wen't go through the door. Fortunately we have an unenclosed phone besides the two in booths. If we hadn't that we would lose the biggest part of our telephone trade—the biggest part of the Temale trade, that is. Down in the next block is a store that has no open telephone. The clerks say hardly a woman customer has used their telephone for weeks. Of course the ladies could take off their hats while telephoning, but it would be so much trouble phoning, but it would be so much trouble to put them on again that they prefer walking on a few blocks till they find a phone with plenty of space around it."

#### DUTIES OF STREET RAILWAYS. Must Maintain Their Lines in Condition to

Afford Safe and Adequate Service. ALBANY, May 22 .- An important attitude toward the operation of street railway properties in this State is announced by the up-State Public Service Commission to-night. In an opinion written by Com-

missioner Decker it is held:
"That common carriers by railroad in this State shall at all times render to the public safe, adequate and proper service and maintain their line or fines in a con-dition to afford such service, and ordinarily the fair return to which the carrier is entitled from the property necessarily devoted to public use must be assumed to afford means for maintaining such property in condition to enable the carrier to provide service which is safe and adequate for the reasonable public needs.

reasonable public needs.

"Unfortunate or improvident management of its finances by a common carrier corporation and neglect in the maintenance and operation of its line and equipment cannot be held to redeem it or excuse the carrier from reasonable compliance with such statutory requirement. In this case it is plain that the company has allowed the line and equipment to deteriorate far below any reasonable standard, and this commission must, in the discharge of its duty under the statute, issue its order requiring the company to promptly reach and henceforth maintain such reasonable standard of public service."

The decision was given in ordering the

The decision was given in ordering the Port Jervis Electric Light, Power, Gas and Railroad Company to put its railroad property in proper condition and to operate it so as to serve the public.

### SIGNED BY GOV. HUGHES.

Two Bills Amending Election Law and On for Another Municipal Court in Queens. ALBANY, May 22.-Gov. Hughes to-day signed two bills amending the election law. One, Assemblyman J. H. Walters's bill. provides that the custodian of election records need not preserve the stubs and unvoted ballots longer than six months, or voted ballots longer than six months, or the other records for longer than three years, unless otherwise ordered by a com-mittee of the Legislature, the District Attor-ney or a Judge of a court of record. The other, Assemblyman Ward's bill, provides that the polls at primary elections shall open at 3 o'clock instead of 2 o'clock. The Governor also signed the bill of As-semblyman DeGroot creating an additional Municipal Court district in Queens borough, making four such districts in the borough.

### WHITE WINGS'S LONG FLIGHT

SUCCESSFUL TEST OF THE BELL AEROPLANE.

It Travels 1,017 Feet, Lightly Touching the Ground Once, in Nineteen Seconds -Rises to a Height of Fifteen Feet -The Williams Helicopter Unable to Fly

HAMMONDEPORT, N. Y., May 22-Glenn H. Curtise in the Baldwin aeroplane White Wings this afternoon made the longest flight for a machine heavier than air that has ever been made in this valley. The White Wings flew 1.017 feet in 19 seconds, and with the exception of the dropping of a bolt no damage was done to the aeroplane. Mr. Curtiss had perfect control of the machine throughout and the steering was accomplished with ease.

It was 8:20 when the test of the motor was made. It was impossible to get the machinery under way before that hour owing to a heavy wind from the southwest, but with the setting of the sun came a dead calm. The White Wings rose and soared at a height of fifteen feet directly down the valley. Her first flight was 15 feet. Then she dipped and for a fraction of a second touched the ground, but answering the touch of the eviator's control White Wings rose again and continued her flight for 402 feet. Then Mr. Curtis, fearing that she would touch again, made the descent and for a hundred feet the wheels of the aeroplane ran smoothly over the ploughed field. So perfect was the aviator's control of the movable tips that neither of the wings touched the ground.

Another flight would have been made. but a leak was discovered in the engine. Mr. Baldwin was elated at the success of this trial, for it eclipsed completely the record made by the Red Wing in her flight from the ice last winter, when she travelled but 319 feet and ended the flight by flopping

but 319 feet and ended the flight by flopping on her side and falling completely wrecked.
Lieut. Thomas Selfridge said that the flight te-day would settle any doubts as to the aeroplane being practical.

"We are out of the realm of theory and experiment so far as construction goes," he said, "but we are in need of much experience as aviators."

Mr. Baldwin said: "I am glad it is a success, for Dr. Bell will be pleased."

Flights are planned for to-morrow, and all the members of the Aerial Experiment Association expect to act as aviators once or twice.

The early part of the day was spent in unsuccessful efforts to get the Williams helicopter lifted from the ground. At one time three sides were raised, but the corner of the carriage to which was fastened the outrigger carrying the fifty pound ballast tilted the machine and at noon Mr. Curtis tilted the machine and at noon Mr. Curtis gave up testing any further, saying that there was something wrong with the machine, for the motor was in perfect working condition. He said the tests proved that the machine is very delicately adjusted, but it is not yet out of the experimental stage. He said it was not a failure, but that more experimenting was necessary before flight. Capt. J. Newton Williams, the inventor, said: "I am not discouraged. On the whole the results of this series of tests have been very gratifying to me. I feel that I have gained a great deal from them. The tilting was due to the fact that the helicopter was confined at its base. If it had been free this tilting would not have occurred."

#### THROUGH WITH 30 DAY BILLS. Gov. Hughes Signs the Appropriation, Supply and Many Other Measures.

ALBANY, May 22.-Gov. Hughes signed the annual appropriation and supply bills to-night, together with eight other thirty day bills, the office of the Secretary of State being held open until 6:45 P. M. in order that the bills might be filed with that official and thus avoid any possible complications that might arise through te-morrow being the last day for the consideration of the bills Other bills signed by the Governor to-night included the following:

Assemblyman Whitley's, appropriating \$100,000 for the establishment of a State farm for women, to be located in the Second. Third, Sixth or Ninth Judicial district, the enterprise to be under the direction of a commission consisting of the State Superintendent of Prisons, the president of the State Prison Commission, a member of the State Board of Charities and two women to be appointed by the Governor.

Senate Finance Committee's, authorizing the State Armory Commission to obtain options, not exceeding \$500,000 in all, for a field rifle range to replace the Creedmoon range recently abandoned as dangerous. Assemblyman Merritt's, making appro-priations for the New York State School for the Blind, Elmira Reformatory and the East-

ern New York Reformatory. Assemblyman Merritt's, making appro priations for constructions, additions and Senator Fuller's, authorizing the use of the

old Creedmoor rifle range as a new site for

he Long Island State Hospital. Assemblyman Hubbs's, authorizing the use of Fire Island, in the towns of Islip and Babylon, Suffolk county, for a State reservation to be called Fire Island Park. The island was purchased by the State during the cholera scare when Roswell P. Flower was Governor Gov. Hughes to-night signed the bill of Senator Frawley permitting New York city through the Public Service Commission, with the approval of the Board of Estimate with the approval of the Board of Estimate and Apportionment, to acquire the Belmont tunnel running under the East River between Forty-second street, Manhattan, and Long Island City. Before the recent Court of Appeals decision upholding the charter of the Steinway Tunnel Company it was anticipated the city could buy the tunnel for \$7,000,000.

In signing the bill Gov Hughes gave out this memorandum:

this memorandum: This bill authorizes the Public Service Commission of the First district, with the approval of the Board of Estimate and Apportionment of New York city, to purchase upon agreed erms and acquire by conveyance to the city lines of railway already con structed or in process of construction which

might be built as rapid transit railways. This is a power which the authorities should possess. Whether or not it should be exercised in a particular case will of course depend upon the nature of the rights and prop-erty to be acquired, the terms that can be made and the advantages of the purchase con sidered in relation to sapid transit plans and

The bill in my judgment should have con tained a provision for condemnation. And such authority should later be added. The Governor also signed Assemblyman Mills's bill amending the Forest, Fish and Game law, which among other things protects Adirondack and other private preserve owners from poachers. It provides a penalty of \$25 exemplary damages for hunting and fishing on private grounds without permission where "private grounds" signs have been conspicuously posted.

Northern Bank Consolidation Approved ALBANY, N. Y., May 22.-State Superintendent of Banking Clark Williams to-day announced in the weekly bulletin of his department that he has apof his department that he has approved the agreement for the merger of the Northern Bank of New York and the Riverside Bank into the Hamilton Bank of New York city, the consolidated institution to be known as the Northern Bank of New York, with a capital of \$700,000. Supt. Williams has also permitted the Madison Safe Deposit Company of New York city to open two branches in Manhattan borough, at 413 Broadway and at the southwest corner of Broadway and Seventy-second street.

No Extra Charge for It. Advertisements for THE SUN and THE EVENING SUN may be left at any American District Messenger office in the city.

THE SEAGOERS. Passengers on the Liners That Leav. e fo

Europe To-day. Sailing to-day by the Atlantic Transport liner Mesabs for London:

Mr. and Mrs. Augustus Barrett, Mr. and Mrs. Alban Booth, Mrs. G. H. Mathewson, Brig.-Gen. Charles G. Sawtelle and Mrs. Saw-telle, Col. and Mrs. Albert Todd, Lady Beatrice Thypne and A. M. Woodgate.

Passengers by the American Iner St. Louis for Plymouth, Cherbourg and South-

Col. and Mrs. Emile M. Blum, Mrs. L. F. Bogardus, Mr. and Mrs. J. H. Gower, Percival L. D. Perry, Mrs. K. J. Potter, Mr. and Mrs. J. Chase Taibot and Mrs. Wales R. Stock-

Aboard the Red Star liner Ze eland, off for Dover and Antwerp:

Mrs. H. Van Rensestaer Kennedy, Mr. and
Mrs. William H. Smith.George Stearns Foster,
Dr. and Mrs. C. T. Poore and Dr. J. L. Wagner.

Sailing by the Anchor liner Caledonia for Glasgow: William H. Campton, Thomas A. Glen-enning, Mr. and Mrs. William. G. Hudson, F. rescott Metcalf, Alden S. Thurston and Mrs. Willoughby-Smith.

Passengers by the Cunard liner Etruria, for Queenstown and Liverpool:
George de Vries, L. H. Haight, Mr. and Mrs. Wellesley Moore, Prof. La Herdt and R. B. Ireland. Sailing by the Hamburg-American liner Pretoria, for Plymouth, Cherbourg and Hamburg:

Mrs. Carey P. Weston, the Rev. and Mrs. James M. Owens, Dr. F. R. Bailey, Dr. G. W. Balley and Mrs. G. L. Laporte. Passengers by the Regina d'Italia of the Lloyd Sabaudo fleet, off for Naples: Mrs. Emma Heary Robinson, Miss Phyllis S. Wood, Dr. and Mrs. J. Buel, Mr. and Mrs. Theodore F. Jones and Prof. N. M. Fenne-

Aboard the Fabre liner Germania, for the Mediterranean: Harrington Johnson, Mrs. H. P. Havens, Lawrence Dudley and Mr. and Mrs. L. P. Baker.

#### COL. G. A. MILLER DEAD.

Was Professor of Law in New York University and a Well Known Practitioner. Col. George Alfred Miller, a member of the law firm of Carter, Ledyard & Milburn, died yesterday at his home in Montclair as a result of a stroke of apoplexy sustained two weeks ago. He was born in this city on August 30, 1853, was graduated from Columbia College and Columbia law school and began the practice of law. He joined the Twenty-second Regiment and rose to the rank of Lieutenant-Colonel.

He served in the strike riots of 1877 and later was transferred to the Twelfth Regiment, was transferred to the Twelfth Regiment, from which he retired about ten years ago.

He was professor of law in the Metropolitan Law School for several years and left that post for a similar one in New York University. He retired a year ago and the faculty and students gave him a dinner and a loving cup.

He had lived in Montclair for thirty years and was one of the charter members of the Montclair Club. He was defeated for Congress on the Democratic ticket in 1902. He leaves a widow, who was Miss Julia Wainwright of Boston, and two children.

Gov. John Sparks of Nevada, who died yesterday morning near Reno in that State, was not far from 50 years of age. He was serving his second term of four years and had he lived would have remained in office until December 31, 1910. Gov. Sparks was most recently heard of, outside his own State, last December when as a result of the struggle between the miners and the mine owners President Roosevelt was induced by him to send Federal troops to Goldfield. Five companies of infantry and a machine gun platoon were hurried to the mining camp from San Francisco and Gen. Funston went to Goldfield himself. The troops reached Goldfield December 7 and remained until March 7. There was no violence of consequence all this time. Late in December the President and Gov. Sparks had a sharp controversy, the President finally giving the Governor five days to call the Legislature together to make proper provision for policing the mining camp. The Governor protested, but ultimately yielded, the President saying that there had been no threat of disturbance the State could not quell had it made the effort. The President furthermore sent three commissioners to investigate. They reported that Goldfield didn't need the army and never had needed it. Gov. Sparks was a picturesque character vestigate. They reported that Goldheid didn't need the army and never had needed it. Gov. Sparks was a picturesque character of his day and generation. He was largely interested in mining ventures at Goldheid. He spent much of his time in the big mining camp in the last two years and was known as "the man who never refused a drink." Back in the '908 Gov. Sparks figured prominently in the sheep herders' war near the boundary between Nevada and Idaho. A desperado cailed Diamondfield Jack Davis while in his employ killed several sheep herders of the rival faction and charges were made, though never proven, that Sparks had hired Diamondfield Jack to commit the murders. At all events, Sparks defended the desperado to the end. Diamondfield Jack was ultimately convicted, largely through the energetic prosecution of the present United States Senator from Idaho, William E. Borah. He was reprieved while literally on the gallows and later was pardoned by Gov. Hunt of Idaho, who owed his election to the friends of Sparks and Davis.

Major J. Fred Ackerman, who died at his pardoned by Gov. Hunt of Idaho, who owed his election to the friends of Sparks and Davis. Major J. Fred Ackerman, who died at his country home, Belle Haven, Greenwich, Conn., late on Thursday evening, was the president of the Perkins-Goodwin Company, the most prominent, perhaps, of the paper commission houses in this city. The funeral services will be held at 3 o'clock this afternoon at Christ Church, Greenwich. Major Ackerman, who was born on November 1, 1830, began life as an office boy in 1886 with Buchanan, Perkins & Goodwin, paper merchants. He became a partner in 1881, the firm name then becoming Perkins, Goodwin & Co. When the present Perkins-Goodwin Company was incorporated in 1908 after the death of Edward Goodwin and upon the retirement of George F. Perkins, Major Ackerman became president, John H. Duffy vice-president and Eugene F. Crow secretary. Major Ackerman was for many years closely identified with the department of paper mill supplies. He was a director in the Ouistchouan Pulp Company of Chicoutimi, Quebec and of the Fourteenth Street Bank of New York and a member of the Veteran Association of the Thirteenth Regiment, N. G. N. Y., of which for many years he was Major; of the Atlantic Yacht Club, the Manhanet Bay Yacht Club, the Indian River Yacht Club, the Merchants Association and the New York Board of Trade and Transportation. Major Ackerman was a good deal of a traveller and had but recently returned from a tour through Italy. He leaves a widow and three daughters.

William R. Balley, who was formerly president of the New York Hotel and Restuarant

turned from a tour through Italy. He leaves a widow and three daughters.

William R. Bailey, who was formerly president of the New York Hotel and Restuarant Company, died on Thursday at his home, its St. John's place, Brooklyn, in his seventy-sixth year. He was for many years in the employ of the Collins Steamship Company and was chief officer of the steamship Baltic when she was sent as a relief ship with supplies to Fort Sumter at the opening of the civil war. At the close of the war he went to China and for three years was in command of a vessel built for the Chinese Government. On his return to this country he started in the restaurant business at 130 Broadway. He leaves a widow, three sons and a daughter.

Ashbel B. Tracy of Mayville, N. Y., died yesterday at the age of 80 years. He went from Herkimer county to Mayville with his parents when syears old and grew up with the village. He was one of the best cabinet makers in western New York. His house was completely equipped with furniture of his own make, some pieces of historical value including a table made of Commodore Perry's flaghip. He is survived by his wife.

A despatch received at Washington yesterday announced the death of Charles H. Wood, American Vice-Consul at Rome, Italy. He had been in bad health for some time. He was a native of Verment and was appointed to the service as a consular clerk in 1873. He served in Lyons and Paris, but most of his career was spent in the consulate at Rome, where he had been almost continuously since 1876.

Joseph R. Nayler, 80 years old, died at his

where he had been almost continuously since 1876.

Joseph R. Nayler, 60 years old, died at his home, 153 Hillside avenue, Newark, yesterday after an illness of ten days. He was born in England and came to this country about forty years ago. He was president of the Newark Sheet Metal Wars Company. For twenty-five years he was head chemist of Schieffelin & Co., of New York. He is survived by his wife and a daughter.

Samuel C. Hubbard, at one time Mayor of Middletown, Conn., and one of the Presidential electors from that State who cast their votes for a second term for Abraham Lincoln, is dead at his home at 122 Beach street, Richmond Hill, L. I. He is survived by a sen, Edwin Hubbard of Terra Ceta, Fla.

Union Oil Co. to Compete With Standard. SAN FRANCISCO, May 22 .- The Union Oil Company, most of whose shareholders live in southern California, has increased its capital stock from \$10,000,000 to \$50,000,000. The purpose is to extend its plant and become the most formidable competitor of the Standard in this country.

## EVANS REPLIES TO CLAUSEN

WYANT BOUGHT FROM ARTIST'S WIDOW NOT CHANGED.

art Collector Admits That It Was Signed by Mrs. Wyant and Was Sold at a Profit -All the Other Clausen Charges Untrue He Says-Why Suit Was Brought

William T. Evans, who returned yesterday from a visit to Massachusetts, made the ollowing statement:

"I do not care to enter into a newspaper controversy with Mr. Clausen. The mat-ter is in the courts, and it will be for him to establish, if he can, that he has not com mitted the acts of fraud and deceit with which he is charged. I will, however, say that, apart from matters too trivial to notice the statements he has made concerning myself are totally false, with two excep-

"One is that it is true that the picture by Wyant to which he makes reference was signed by his widow after her hus-band's death. This was entirely proper, and many of Wyant's pictures were similarly and many of wyant's pictures were similarly signed by Mrs. Wyant, without any concealment, both during her husband's life and after his death. It is also true that the picture referred to was sold at a profit when my first American collection of pictures was dispersed by auction in 1900, but the profit was not as great as has been extend.

but the profit was not as great as has been stated.

"This picture by Wyant was not obanged while in my hands, and was sold by me in precisely the same condition in which I bought it.

"The artist whose name has been so freely mentioned was never employed by me to retouch or restore any picture whatever with the single exception that I once had a wooden panel painted by Charles E. Ulrich, who died a day or two ago, which was so hadly cracked that Mr. Ulrich could do nothing with it, and at his suggestion I gave it so this artist to restore, which work he did very well. Beyond the above he never did a particle of work for me except in the way of cleaning and varnishing pictures.

pictures.

"I feel that by the suits which I have brought a blowbas been struck at a nefarious traffic which deserved to be exposed and

traffic which deserved to be exposed and if possible put a stop to.

"Before suit was commenced abundant opportunity was given Mr. Clausen to furnish the history of the pictures, and if he had been in a position to give the same information which a merchant would usually be able to give concerning valuable merchandise which passes through his hands there would have been no mystery about the matter.

"Since the matter became public many facts relating to other transactions of Mr. Clausen have been received. They are of such a character as to furnish the most abundant corroboration of the charges

clauser have been received. Iney are of such a character as to furnish the most abundant corroboration of the charges made, and when given to the public, as they will be in due time, they will convince the most sceptical that I have not proceeded without sufficient cause.

"I should have consulted my own comfort and convenience by merely withdrawing the spurious pictures from the National Gallery of Art at Washington as soon as I became convinced that they were such and substituting genuine pictures in their stead, but I felt that my duty to the public did not end there. So far as I am concerned the matter will be carried to its consequences, at whatever inconvenience or annoyance to myself."

#### TRA-LA-LA-ING AT BARNARD. Seniors Have Their Last Sing and Surrender

the Steps. The Barnard seniors said farewells to the other classes yesterday afternoon in the "ceremony of the steps" and the tree

planting festivities. The younger girls, arrayed in white dresses and the academic cap and gown, took up positions on each side of the paths at 2 o'clock. The seniors marched through their ranks singing the college anthem, "Fair Barnard." When the last senior had filed through the other classes fell in line each of the classes took possession of a separate side, the seniors occupying the middle steps, on which they have been singing their class songs for the past year. Each of the classes had brought so many banners, insignia and trophies that the

below the waving bunting.

Miss Elizabeth Fox, the steps orator, announced that '08 would sing a few of their old songs before they gave up their place to the juniors. But when they began with

Oh, strong for 1908 are we, We Freshmen gay and jolly.

and sang it just as flat as they used to in their first year the under class girls falled to restrain their amusement. As one of the more frivolous minded explained: "You know the '08 people never had much of a reputation for being song birds, but we did think they had learned that tune after four years of practice."

A few minutes later this absent minded class struck another snag, when instead of

Singing Barnard, we girls of 1908 To thee our song do raise.

They came out with the original words Drink to me only with thine eyes.

"I guess they haven't gotten over the senior dance yet," said one disrespectful senior dance yet, said one disrespectful junior.

After the singing Miss Fox formally gave over the steps to the coming senior class and asked them to remember that an ideal college atmosphere could be maintained only by each girl living up to her own individual ideal. The seniors then got together for the last time and sang:

The time has come, dear comrades, For us to say good-by.
The Juniors to the steps we call-Good-by to Barnard, good-by.

Our hearts to you will e'er be true. Though now we sadly say adjeu; But memories sweet we'll hold of you-

Good-by to Barnard, good-by. After this all the college girls helped plant the 1908 tree, for which Miss Irma Alexander stood sponsor. And when this arducus task had been accomplished they had a liberal good-by "spread" in Brinck-

rhoff Theatre.

The committee in charge of the ceremonies were Elizabeth Freeman Fox, chairman; Mabel Peterson, Ellen O'Gorman, Josephine Prahe and Mary Maxon.

#### DOG CATCHES A BIKE THIEF. Outruns Other Pursuers, Gets Held of the Robber's Leg and Throws Him.

A yellow dog, just a plain everyday mutt, yesterday led a successful and exciting chase in Bayonne after a bloycle thief and the dog got to the thief first and held him until he was made a prisoner. The dog is called Dick and is owned by ex-Fire Chief Thomas F. Garrett, proprietor of the City Hotel on Broadway. Garrett left his new bicycle in front of the hotel. Dick was sunning himself on the porch of the hotel when a young man came along and seeing nobody about jumped on the wheel and pedalled rapidly down the street.

Dick notified his master that something was wrong by barking and then dashed after the wheel and man. Garrett took in the situation at a glance and started after the dog. He halled a passing automobile and jumped in and a butcher and a grocer and a piano dealer joined in the chase in their wagons. A hundred men and boys afoot trailed along. The thief was a speedy rider, but after going a mile his wind gave out and the dog caught up with him.

Dick made a bound for the man and sank his teeth in his trousers. The man fell from the wheel, and before he could arise Garrett and the others arrived. Led by the collar by Garrett he was taken to police headquarters, where he described himself as Abe Brocks of \$11\$ Avenue C, a resident of Baycane for three months. He was held for the Grand Jury on a sharge of larosey. Dick followed his master home, wagging his tail furiously. until he was made a prisoner. The dog is

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# JACKSON'S CONVICTION UPSET

ELEVATED RAILROAD SWITCH-MAN WING ON APPEAL.

Held Guilty in General Sessions of Manslaughter Because of Accident at Fifty-third Street in 1905, but a Divided Court Approves His Appeal. The Appellate Division of the Supreme Court reversed yesterday the conviction

of Cornelius A. Jackson, the Sixth avenue elevated railroad switchman who was convicted of manslaughter in the second degree and sentenced by Judge Foster in General Sessions to serve five years in The decision of the Appellate Court is not unanimous, as Justice Scott dissents.

but Justice Clarke. writing the prevailing opinion, holds that the evidence did not sustain the indictment and that therefore the judgment of conviction should be re-In the indictment Jackson was declared to have been negligent criminally in operating his switches in the tower at the Fiftythird street curve on September 11, 1905. with the result that a Ninth avenue train took the Sixth avenue switch while running

at full speed. One of the cars was thrown off the tracks and fell to the street, several passengers being killed and many injured. Paul Kelly, the motorman, fied to the Pacific coast after the disaster, but he was in-dicted for manslaughter and some months dicted for manslaughter and some months ago returned and surrendered himself.

Jackson, the switchman, was tried and convicted more than a year ago, but his counsel appealed, and yesterday's decision practically acquits him of any criminalact or negligence. The specific charge against him was that he had the green, or safe, signal set instead of the red, or danger signal, and that in consequence the motorman was not warned that the switch was open and did not slow down his train as he came to the curve.

open and did not slow down his train as he came to the curve.

Justice Clarke says that the undisputed facts show that it was the gross and culpable negligence of the motorman, Kelly, in proceeding at a high rate of speed in disregard of the rules of the company and in defiance of the orders given him by the strain displayed to store that really and in defiance of the orders given him by
the signals displayed to stop that really
caused the disaster. There was no misplaced switch, no erroneous signals, and
had the red signal been displayed, says
Justice Clarke, instead of the green the
orders to Kelly to stop his train would not
have been more imperative.

"But it may be said," adds Justice Clarke,
"that if the towerman had sat his track beek

"But it may be said," adds Justice Clarke, "that if the towerman had set his track back to Ninth avenue and the home signal had been displayed red, and if the Ninth avenue metorman had disregarded the signal and had run past it at the rate of twenty-five miles an hour no accident would have occurred because he would have proceeded straight down the Ninth avenue track.

"The answer is that the defendant has not been indicted for a general failure of duty or for a failure to set back the Ninth avenue track."

duty or for a failure to set back the Ninth avenue track."

Justice Clarke goes on to say that the court cannot assume that the motorman, who had already disregarded one imperative signal to stop, would have obeyed another, such as the red signal Jackson is charged with failing to display. As the signals stood they were properly set for the condition of the tracks, and the switchman cannot be held responsible for the gross negligence of the motorman in failing to obey the signals, says Justice Clarke, and the court's conclusion is that the conviction should be reversed. There is no order for a new trial of the case.

Pending the appeal Jackson has been on bail.

### Last Day of the Hippodrome.

The Hippodrome closes another successful eason with its two peformanees to-day. Shubert & Anderson have not yet announce any plans for next season, but general activity in the mechanical department shows that work has already begun upon a still larger production. At each of the matinee performances of this week the management has entertained from 700 to 1,000 orphans and school children. In the summer several improvements to the big stage are contemplated. One of these will be an extension of the tank through the runways right and left so that it will be possible to make entrances and exits with a boat or any moving object in the water. The Hippodrome horses (eighty in number) will be taken by Frank Melville, the equestrian director, to Starrett's Farm, at Nanuet, N. Y., and put out to pasture for the summer. activity in the mechanical department shows N. Y., and put out to pasture for the sum

## Henry E. Dixey closes his engagement

at the Bijou Theatre to-night and on Monday noon the house will open with vaude-

ville and moving pictures.

A special matines of "Girls" will be given at Daly's Theatre next Friday by the company that opens in Chicago on June 1. The members of the New York company will pocuum bossas.

OPEN SHOP DYNAMITING INQUIRY National Erectors Association Investigating Bay Chester and Other Outrages.

Commissioner Walter Drew of the National Erectors Association, a member of which has the contract for the bridge across the tracks of the Harlem division of the New Haven railroad at Bay Chester, which was dynamited early on Thursday murning, announced yesterday that an

investigation has been started by the association.

He declared that since the open shop had been declared locally and nationally by the association in the housesmith trade representatives of the union had made threats against several contracts in different cities, which were followed by wrecking or attempts at wrecking work. He con-

tinued:

"We have some evidence concerning these outrages which we are not prepared to give out now but which will come out in due time, and when it is completed may be followed by arrests. We are trying all we can to protect our members and will soon be able to throw some light on the matter. There is not a doubt in my mind that union men are connected with such attempts and I know that members of the mion have made threats before some of

attempts and I know that members or the union have made threats before some of the outrages occurred.

"No one is interested in the matter but the members of the union and that the old wrecking crew or some similar body of men in the union is operating now throughout the country I am quite certain. I do not care to say now the exact evidence we have in hand as we do not want to put the perpetrators of the outrages on guard, but we are now very close to them. It so happens that there is not enough work to go round, and this makes the situation worse, as the competition for the work may be responsible for the increase in the number of wrecking cases lately in spite of all our vigilance. The open shop will be a permanent institution among the members of the association, and even if we were weak enough to be so scared into recognition of the union it would not mean immunity from trouble."

BOYCOTTING A BAKER. Distributor of Detrimental Circulars Ar-

rested in Williamsburg. George Knauth, a baker at 151 Wyckoff avenue, Williamsburg, caused the arrest yesterday of Jacob Wendel, a journeymen baker of 542 Bleecker street, on a charge of conspiracy in having, as alleged, distributed boycotting circulars detrimental

to his business.

Knauth discharged an employee some time ago who belonged to Journeyman's Local No. 3. In place of the man Knauth hired one who belonged to another local. Because of this he was harassed, he says, and yesterday when Wendel was seen putting boycotting circulars into the letter boxes of dwellings near Knauth's bakery Knauth had his attention called to it, and he pursued Wendel for several blocks before he overhauled him.

At the Hamburg avenue police station Wendel was held on a charge of conspiracy. On being arraigned in the Manhattan avenue police court he was represented by ex-Judge

police court he was represented by ex-Judge Kramer, in whose custody he was paroled pending a hearing.

SEEKING AN ERRANT BANKER.

Antonio Russo Temporarily Absent From His Place in The Bronx. The Bronx detective bureau is investigating the disappearance of Antonio Russo. who runs a little wine shop and bank at

2880 Arthur avenue in The Bronx Italian 2880 Arthur avenue in The Bronx Italian district. Russo was seen to leave his house Thursday night in company with his wife. two children and with several bundles. Yesterday morning the wine shop and bank were discovered to be closed.

After Capt. Flynn had chased away a crowd of excited Italians, Italian sleuths from the Bronx bureau investigated and found that Russo had had about \$10,000 on deposit. The vaults were locked, so it could not be discovered whether he had left any of this behind. Russo had recently been trying to raise money to close some

KNEIPP LINEN MESH

been trying to raise money to close some real estate deals but failed.

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